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In re Application of

AUG 13 2008

Takeshi Fukada

Application No. 10/656,263

**DECISION ON PETITION**

Filed: September 8, 2003

Attorney Docket No. 07977-256002

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed July 16, 2008.

The petition is **granted**.

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed January 3, 2008. The notice set a statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on April 4, 2008. A petition to withdraw the holding of abandonment was first filed on June 17, 2008, and dismissed by a decision mailed June 30, 2008. A Notice of Abandonment was mailed on July 10, 2008.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to the Office of Data Management for further processing, including re-mailing of the Notice of Allowance and Issue Fee Due and Notice of Allowability and resetting of the time period for reply thereto.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.



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Office of Petitions